

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

DANIEL KLEEGERG, LISA STEIN, and
AUDREY HAYS,

Plaintiffs,

v.

WENDY EBER, in her individual
capacity and as Executrix u/w/o LESTER EBER;
ALEXBAY, LLC f/k/a LESTER EBER, LLC;
LUCIA GORDON GUMAER and PATRICK D.
MARTIN solely in their capacities as Executors
under the will
of ELLIOTT W. GUMAER, JR.; and,

Defendants,

and

EBER BROS. & CO., INC.; EBER BROS. WINE
AND LIQUOR CORP.; EBER BROS. WINE &
LIQUOR METRO, INC.; EBER-
CONNECTICUT, LLC; EBER-RHODE
ISLAND, LLC; EBER BROS. ACQUISITION
CORP.; EBER-METRO, LLC; SLOCUM &
SONS OF MAINE, INC.; and CANANDAIGUA
NATIONAL BANK & TRUST COMPANY,

Nominal Defendants.

Civil Action No. 16-CV-9517
(LAK)(KAP)

**NOTICE OF MOTION FOR
SANCTIONS AGAINST UNDERBERG
& KESSLER, LLP AND JOHN
HERBERT**

PLEASE TAKE NOTICE that Plaintiffs, Daniel Kleeberg, Lisa Stein, and Audrey Hays, by and through their undersigned counsel, on July 3, 2023, at 9:30 a.m., or as soon thereafter as they may be heard, will move the Honorable Court of the Southern District of New York, for an order pursuant to Federal Rule of Civil Procedure 37, 28 U.S.C. § 1927, and the Court's inherent authority, imposing sanctions on defense counsel Underberg & Kessler, LLP and John Herbert.

Dated: June 12, 2023

/s Brian C. Brook

Brian C. Brook (BB 1980)

BROOK & ASSOCIATES, PLLC

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and Audrey Hays*